

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

JAMES B. DAWSON

PLAINTIFF

VERSUS

CIVIL ACTION NO. 3:13cv473-HSO-RHW

**UNITED STATES POSTAL SERVICE and
PATRICK R. DONAHOE, Postmaster General**

DEFENDANTS

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED
FINDINGS OF FACT AND RECOMMENDATION AND
DISMISSING CASE WITHOUT PREJUDICE**

This matter comes before the Court on the Proposed Findings of Fact and Recommendation [7] of United States Magistrate Judge Robert H. Walker, entered in this case on April 23, 2014. The Magistrate Judge recommends that this case be dismissed without prejudice for Plaintiff's failure to prosecute. Proposed Findings of Fact and Recommendation [7] at 2. Plaintiff has not objected to the Proposed Findings of Fact and Recommendation. After a full review and consideration of the Magistrate Judge's Proposed Findings of Fact and Recommendation [7], the record as a whole, and relevant legal authorities, the Court finds that the Magistrate Judge's Proposed Findings of Fact and Recommendation [7] should be adopted in its entirety as the finding of this Court and that this civil action should be dismissed without prejudice for Plaintiff's failure to prosecute.

I. BACKGROUND

Plaintiff filed his original Complaint [1] on July 31, 2013. He then filed an Amended Complaint [3] on November 27, 2013. Plaintiff named as Defendants the

United States Postal Service and Patrick R. Donahoe, Postmaster General.

Because Plaintiff had not properly perfected service upon either Defendant United States Postal Service or Patrick R. Donahoe within 120 days after his Complaint was filed, the Magistrate Judge entered an Order to Show Cause [6] on March 28, 2014. The Order [6] required Plaintiff to show cause in writing why his Complaint should not be dismissed for failure to comply with Federal Rules of Civil Procedure 4(i) and 4(m) by April 15, 2014. **“Plaintiff [was] cautioned that failure to respond to this Order in writing by the date indicated will result in the dismissal of his lawsuit for failure to prosecute.”** Order [6] at 2 (emphasis in original). When Plaintiff failed to respond to the Order to Show Cause [6], the Magistrate Judge recommended that this case be dismissed without prejudice for Plaintiff’s failure to prosecute. Proposed Findings of Fact and Recommendation [7] at 2.

II. DISCUSSION

A copy of the Proposed Findings of Fact and Recommendation [7] was mailed to Plaintiff on April 23, 2014, via certified mail return receipt requested. An acknowledgment of receipt [8], dated April 30, 2014, was received by the Clerk of Court and filed into the record on May 2, 2014. Any objection to the Magistrate Judge’s Proposed Findings of Fact and Recommendation [7] was due within fourteen (14) days of service. L.U. Civ. R. 72(a)(3). To date, Plaintiff has not filed any objection. Nor has Plaintiff filed anything into the record of this case since the Magistrate Judge entered the Proposed Findings of Fact and Recommendation [7].

Where no party has objected to the Magistrate Judge's Proposed Findings of Fact and Recommendation, the Court need not conduct a *de novo* review of it. 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made"). In such cases, the Court applies the "clearly erroneous, abuse of discretion and contrary to law" standard of review. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court concludes that the Magistrate Judge's findings are not clearly erroneous, nor are they an abuse of discretion or contrary to law. For the foregoing reasons, the Court will adopt the Magistrate Judge's Proposed Findings of Fact and Recommendation [7] as the opinion of this Court. This civil action will be dismissed without prejudice for Plaintiff's failure to prosecute.

III. CONCLUSION

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [7] of Magistrate Judge Robert H. Walker, entered on April 23, 2014, is adopted in its entirety as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, this civil action is **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to prosecute.

SO ORDERED AND ADJUDGED, this the 22nd day of May, 2014.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE